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JUL 12 2010

**REMARKS/ARGUMENTS**

Preliminarily, Applicant makes the Examiner aware of the fact that on January, 7, 2010, a Revocation of Power of Attorney and a new Correspondence Address was filed together with a response to the office action of July 21, 2009, as evidences by PAIR for this case. Accordingly, Applicant respectfully requests mailings to the current address so that papers can be received in a timely fashion.

This is in response to the official action dated March 12, 2010. Reconsideration is respectfully requested.

**Drawings:**

The Examiner objected to the drawings. He pointed out that the structure of the suction pipe sheathing the pressure tubule in the manipulable operating device, are not shown. Applicant has canceled this feature from claim 8. Thus, the drawings show every feature of the claimed invention. The objection thus should be removed.

**Claim rejections under 35 USC § 112**

The Examiner rejected claim 8 for failing to comply with the written description requirement. Upon review, Applicant discovered an inadvertent clerical error which is now corrected by the current amendment. As the Examiner correctly observed, the inner periphery is attached to the piston and the outer periphery is attached to the cylinder wall, all is shown in Fig. 2.

**Claim rejections under 35 USC § 103**

The Examiner rejected claims 8, 11 and 14 as being obvious over Yoder (US 5,871,462) in view of McDonnell (US 5,591,184).

Applicant amended independent claim 8 to further emphasize differences between Yoder and the present invention and submits that claims 8 claims a different water jet apparatus assembly than the one taught by Yoder. On a preliminary note, Applicant submits that the Yoder pump system is not a preferred pump because the membrane is in contact with both liquids that is the clean

fluid contained in the storage container and the working fluid. The pump in applicants claimed invention is designed such that the cylinder-piston only comes into contact with liquid of the storage container, not with any liquid filled with cutting debris which is pumped into a receiving tank. Yoder discloses a system for generating a high pressure fluid jet including a variable pressure pump for creating the high pressure fluid and a burst resistant delivery tube. The pump includes a disposable diaphragm pump which is driven by a reusable pump. The pumped fluid communicates with the disposable diaphragm component. The disposable diaphragm pump is mounted to a reusable pumping chamber which generates the force required to flex the diaphragm to fill and eject fluid from a pumping chamber.

In contrast, Applicant provides a different and enhanced water jet apparatus, which differs in several ways. For one, Applicant implements an entirely different pump system, that is, one that creates *a suction space and a pressure space* with a *piston system*. The details of the piston-pump are included in claim 8, in that

"a cylinder formed in a cylinder casing and the cylinder having a wall and a bottom, a piston received in the cylinder casing for reciprocal motion of the piston in the cylinder with space remaining adjacent the bottom of the cylinder, the space functioning as a pressure space upon downstroke of the piston and as a suction space upon upstroke of the piston, and an annular membrane having an outer periphery attached to the conical portion of the cylindrical wall at a position in an upper zone of the piston-cylinder unit and an inner periphery attached to the piston at a position in the upper zone of the piston-cylinder unit, the upper zone being defined by an annular space above the suction-pressured space, the membrane sealing interior of the piston-cylinder unit below the membrane from exposure to the ambient outside the piston-cylinder unit and the membrane being dimensioned so as to allow reciprocation of the cylinder and the annular space being dimensioned so as to allow movement of the membrane therein as the piston reciprocates and the accommodate the membrane when the piston is at rest at end of a downstroke..."

None of these claimed features are taught or suggested by Yoder. Yoder's pump comprises two parts, the piston pumps having a piston 60 in a cylindrical shaft of the housing 26. The cylindrical shaft is closed off by the second part, a disposable pump cartridge. This cartridge includes a diaphragm which contains the supply fluid (e.g., saline) and which diaphragm is acted upon by the piston action of the pump. This combination of separate diaphragm cartridge and pump housing with piston is an entirely different way in which to bring about high pressure

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delivery for cutting. Nowhere does Yoder contemplate a piston cylinder unit having a generally generally cylindrical opening which is formed in a casing having a wall and a bottom, and a piston received in the cylindrical opening for reciprocal motion of the piston in the cylindrical opening with space remaining adjacent to the bottom of the cylindrical opening, the space functioning as a pressure space upon down stroke of the piston and as a suction space upon upstroke of the piston, and **opposite the bottom formed by the cylindrical opening, the cylindrical opening takes on a conical portion, an annular membrane having an outer periphery attached to the conical portion of the generally cylindrical wall at a position in an upper zone of the piston-cylinder unit** and wherein an inner periphery attached to the piston at a position in the upper zone of the piston-cylinder unit, the upper zone being defined by an annular space above the suction-pressured space, the membrane sealing interior of the piston-cylinder unit below the membrane from exposure to the ambient outside the piston-cylinder unit

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The Examiner combined Yoder with McDonnell, stating that Yoder would not disclose a manipulatable operating device.

Applicant submits that the combination does not render the claims as amended as obvious because Yoder alone is suing an entirely different pumping system as is not more apparent. Such deficiency is not cured by Mc Donnell, let alone any teaching from Gernlein.

Thus, in view of the amendment of independent claim 8, all dependent claims are amended and as such, they are not obvious over any combination cited.

Applicant respectfully submits that the rejections should be removed and the claims should be allowed.

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**CONDITIONAL PETITION FOR EXTENSION OF TIME**

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,  
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